



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

| APPLICATION NO.                                                                                                             | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------------------------------------------------------------------------------------------------------------------|-------------|----------------------|---------------------|------------------|
| 10/650,027                                                                                                                  | 08/27/2003  | Fred H. Burbank      | R0367,00302         | 6463             |
| 61808 7590 02/18/2009<br>EDWARD J. LYNCH, PATENT ATTORNEY<br>ONE EMBARCADERO CENTER<br>SUITE 562<br>SAN FRANCISCO, CA 94111 |             |                      |                     |                  |
| EXAMINER<br>SZMAL, BRIAN SCOTT                                                                                              |             |                      |                     |                  |
| ART UNIT                                                                                                                    |             | PAPER NUMBER         |                     |                  |
| 3736                                                                                                                        |             |                      |                     |                  |
| MAIL DATE                                                                                                                   |             | DELIVERY MODE        |                     |                  |
| 02/18/2009                                                                                                                  |             | PAPER                |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Notice of Abandonment****Application No.**

10/650,027

**Applicant(s)**

BURBANK ET AL.

**Examiner**

Brian Szmaj

**Art Unit**

3736

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 03 June 2008.
- (a) ☒ A reply was received on 22 January 2009 (with a Certificate of Mailing or Transmission dated 22 January 2009), which is after the expiration of the period for reply (including a total extension of time of 6 month(s)) which expired on 03 December 2008.
- (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
- (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
- (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
- (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
- (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
- (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
- (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
- (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
- (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

The Applicants contacted the Examiner on August 26, 2008 regarding the cancellation of the rejected claims in an Examiner's Amendment. However, the Examiner stated that an Examiner's Amendment cannot be submitted without a response from the Applicant. No response was received.

/Max Hindenburg/  
Supervisory Patent Examiner, Art Unit 3736

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.